

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

(1) GEORGE COLLINS and)
(2) ALRIKA COLLINS,)
)
Plaintiffs,)
)
v.) Case No. CIV 22-318-JAR
)
)
(1) STATE FARM FIRE AND)
CASUALTY COMPANY,)
)
Defendant.)

NOTICE OF REMOVAL

The Petitioner, State Farm Fire and Casualty Company (“State Farm”), Defendant in the above-captioned case, states the following:

1. The above-entitled cause was commenced on January 11, 2022, in the District Court of Wagoner County, State of Oklahoma, entitled *George Collins and Alrika Collins v. State Farm Fire and Casualty Company*, Case No. CJ-2022-5. A copy of Plaintiffs’ Petition setting forth their claims for relief upon which the action is based is attached hereto and marked Exhibit 1.
2. The case was not initially removable because Plaintiffs’ Petition sought “damages ... greater than \$10,000.” (Petition, Exhibit 1). *See Dietzel v. Enders*, 2014 WL 3529310, at *3 (N.D. Okla. 2014) (remanding case because “plaintiffs' request for in excess of \$10,000” does not establish that the amount in controversy exceeds \$75,000).
3. 28 U.S.C. § 1446(b)(3) provides that “a notice of removal may be filed within 30 days after receipt by the defendant ... of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.” On November 4, 2022, Plaintiffs filed an Amended Petition seeking to recover “damages exceeding \$75,000.” (Amended Petition, p. 3, ¶ 9, Exhibit 2).

4. Plaintiffs are residents and citizens of the State of Oklahoma residing in Wagoner County, Oklahoma. (Amended Petition, p. 1, ¶¶ 1-4, Exhibit 2).

5. State Farm is an Illinois Corporation with its principal place of business in the State of Illinois.

6. Plaintiffs' claims against State Farm are for alleged breach of an insurance contract and for alleged breach of the duty of good faith and fair dealing. (Amended Petition, p. 2-3, ¶¶ 6-9, Exhibit 2). Plaintiffs seek to recover damages in excess of seventy-five thousand dollars (\$75,000.00), exclusive of interest and costs. (Amended Petition, p. 3, ¶ 9, Exhibit 2).

7. This Court has original jurisdiction over this case pursuant to 28 U.S.C. § 1332 (1992), by reason of the fact that this is a civil action wherein the amount in controversy, according to Plaintiffs' demands, exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs and is between residents and citizens of different states. Accordingly, this action may be removed by State Farm pursuant to 28 U.S.C. § 1441(a).

8. Plaintiffs' Amended Petition was filed on November 4, 2022, and was received by State Farm on November 7, 2022. This Notice of Removal is filed in this Court within thirty (30) days after November 7, 2022, which is the date State Farm was served with a copy of Plaintiffs' Amended Petition, which was the pleading setting forth claims indicating the case had become removable pursuant to 28 U.S.C. § 1446(b)(3).

9. Copies of all process, pleadings, and Orders served upon State Farm have been attached hereto as follows:

- Exhibit 1: Petition;
- Exhibit 2: Amended Petition;
- Exhibit 3: Limited Entry of Appearance;
- Exhibit 4: Plaintiffs' Application to Extend Time to Serve Defendant;
- Exhibit 5: Order Granting Plaintiffs' Application to Extend Time to Serve Defendant;

Exhibit 6: Defendant, State Farm Fire and Casualty Company's Answer to Plaintiffs' Petition;

Exhibit 7: Defendant State Farm Fire and Casualty Company's Motion to Strike or Alternatively Motion to Clarify Damages;

Exhibit 8: Order Granting Defendant's Alternatively Motion to Clarify Damages; and

Exhibit 9: Entry of Appearance.

Pursuant to LCvR 81.2, a copy of the state court docket sheet is attached as Exhibit 10.

WHEREFORE, Defendant, State Farm Mutual Automobile Insurance Company, prays that this action be removed.

Dated this 10th day of November, 2022.

Respectfully submitted,

**ATKINSON, BRITTINGHAM, GLADD,
FIASCO & EDMONDS**
A PROFESSIONAL CORPORATION

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CERTIFICATE OF SERVICE

I hereby certify that on 10th November, 2022, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

S. Alex Yaffe
Terry M. McKeever
Foshee & Yaffe
P.O. Box 890420
Oklahoma City, OK 73189

/s/ J. Andrew Brown